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GOVERNMENT OF INDIA

MINISTRY OF DEFENCE

NOTIFICATION

New Delhi, the 16th September 1948

No. 16/24-A.—In exercise of the powers conferred by section 3 of the Public Safety Ordinance, 1948 (XXIV of 1948), the Central Government is pleased to make the following rules:—

PART I

CONTROL OF TELEGRAPHY, POSTAL COMMUNICATIONS, ETC.

1. **Control of wireless telegraphy.**—(1) In this rule, "telegraph" has the same meaning as in the Indian Telegraph Act, 1885 (XIII of 1885), and "wireless telegraphy apparatus" has the same meaning as in the Indian Wireless Telegraphy Act, 1938 (XVII of 1938).

(2) Notwithstanding anything contained in the Indian Telegraph Act, 1885 (XIII of 1885), or the Indian Wireless Telegraphy Act, 1938 (XVII of 1938), or in the rules made under either of those Acts, the Central Government may, by general or special order, prohibit or regulate the establishing, maintaining or working of any wireless telegraph or the possession of any wireless telegraphy apparatus.

(3) If any wireless telegraph is established, maintained or worked, or any wireless telegraphy apparatus is possessed, in contravention of an order made under sub-rule (2), the person so establishing, maintaining or working the telegraph or possessing the apparatus, and the occupier of the premises on which the telegraph or apparatus is situated, or where the telegraph or apparatus is on board any vessel or aircraft, the master of the vessel or the pilot of the aircraft, as the case may be, shall each be deemed to have contravened the order:

Provided that, in any proceedings which, by virtue of the provisions of this sub-rule, are taken against any person in respect of the establishing, maintaining or working of a wireless telegraph or the possession of wireless telegraphy apparatus by some other person in contravention of an order made under sub-rule (2), it shall be a defence for the accused to prove that the telegraph was so established, maintained or worked or the apparatus was so possessed, without his permission, and that he exercised all due diligence to prevent any contravention of the order.

(4) Any member of His Majesty's Indian forces or any other person authorised in this behalf by the Central Government may, in relation to any vessel or aircraft, take such steps and use such force as may appear to that member or

person to be necessary for securing compliance with any order made under sub-rule (2), or where a contravention of such an order has occurred, for enabling proceedings in respect of the contravention to be taken.

(5) If any person has in his possession any wireless telegraphy apparatus in contravention of any of the provisions of the Indian Wireless Telegraphy Act, 1933 (XVII of 1933), or of the rules made thereunder, he shall be deemed to have contravened the provisions of this rule.

(6) An officer authorised by the Central or a Provincial Government in this behalf may seize any wireless telegraphy apparatus which is possessed or used by any person in contravention of this rule, or of any order made thereunder, or of any of the provisions of the Indian Wireless Telegraphy Act, 1933, (XVII of 1933) and keep it in safe custody subject to the orders of any Court under this rule or of the Government.

(7) If any person contravenes any of the provisions of this rule or of any order made thereunder, he shall be punishable with imprisonment for a term which may extend to five years or with fine or with both.

(8) For the purposes of this rule a Court may presume that a person possesses wireless telegraphy apparatus if such apparatus is under his ostensible charge or is located in any premises or place over which he has effective control.

(9) If in the trial of an offence under this rule the accused is convicted, the Court shall decide whether any wireless telegraph or wireless telegraphy apparatus in respect of which an offence has been committed should be confiscated, and, if it so decides, may order confiscation accordingly.

2. Control of telephones and telegraphs.—(1) The Director-General, Posts and Telegraphs, or any person authorised by him in this behalf, may by order—

(a) direct—

- (i) that any public telephone call office shall be closed to the public for such period as may be specified;
- (ii) that any subscriber's telephone connexion to any exchange shall be cut off for such period as may be specified;
- (iii) where a direction has been given under sub-clause (ii), that the subscriber shall surrender all telephone apparatus and fittings on the premises to such person as may be specified;
- (iv) that any person empowered by him in this behalf by order in writing may listen in to all conversations or any specified conversation over any telephonic system;

(b) make provision for suspending or regulating the use otherwise than for Government purposes, of any telegraph or telephone service in any area specified in the order;

(c) assume the control or direction, or direct any person to assume the control or direction, of any private telephone exchange or any connexion with any such exchange.

(2) If any person contravenes any order made under the provisions of sub-rule (1), he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

3. Power to detain or paraphrase telegrams.—Notwithstanding anything contained in sub-section (1) of section 5 of the Indian Telegraph Act, 1885 (XIII of 1885), any person appointed by the Central Government to be a censor may—

(a) order that any telegraphic message or class of messages to or from any person or class of persons, or relating to any particular subject, brought for transmission by, or transmitted or received

by, any telegraph, shall not be transmitted or shall be intercepted or detained or shall be disclosed to the censor or to any other officer of Government mentioned in the order;

- (b) paraphrase the wording of any telegraphic message suspected of conveying a secret meaning and order the transmission of the message as so paraphrased;
- (c) delete any part of a telegraphic message which he considers to be prejudicial to the public safety or interest or to the security of India;
- (d) order the transmission of any telegraphic message by a route different from that prescribed by the sender.

4. **Possession and use of means of secret communication.**—(1) Subject to the provisions of this rule, no person shall, except with permission granted by the Central Government, send or convey by post or otherwise from any place in India to any destination outside India, or to any destination in India from any place outside India,—

- (a) any instructions for utilising any means of secretly conveying, receiving or recording information, including any cipher or code; or
- (b) any message in cipher or Code; or
- (c) any substance or article manufactured or designed for the purpose of secretly conveying, receiving or recording information; or
- (d) any document or other article secretly conveying or recording any information.

(2) The provisions of sub-rule (1) shall not apply to—

- (a) the sending of instructions for utilising any cipher or code the use of which is approved by notified order of the Central Government; or
- (b) the sending, in accordance with conditions imposed by the Central Government, of any telegraphic message in such cipher or code; or
- (c) the sending of any document conveying or recording information by means of such cipher or code, being a document which specifies in clear the cipher or code used.

(3) The Central Government may, in respect of any area, by notified order declare that it is expedient to control the use of means of secret of communication therein, and thereupon the provisions of sub-rule (1) shall apply in relation to that area as they apply in relation to a destination or place outside India.

(4) Any person who has in his possession or under his control any such instructions, substance, document or other article as is mentioned in sub-rule (1) shall, if required by the Central Government by a written order so to do, deliver up those instructions or that substance, document or other article to such authority or person as may be specified in the order.

(5) Nothing in sub-rule (4) shall be taken to prevent the prosecution of any person in respect of a contravention of the provisions of sub-rule (1).

(6) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

5. **Control of postal communications.**—(1) For the purpose of this rule and of rule 3, the expression "postal article" includes a letter, post-card, newspaper, book, pattern or sample packet, parcel and every article or thing transmissible by post, and a money order.

(2) The Central Government may, by general or special order, either generally or with reference to any part or all parts within or without India, prohibit, regulate, restrict or impose conditions upon the receipt or transmission into, or dispatch from, India of any postal article or of any class or description of postal articles.

(3) Any order made under sub-rule (2) may, with a view to securing compliance therewith, provide for the interception, detention and examination of the contents of any postal articles by such authorities and in such circumstances as may be specified in the order.

(4) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both; and, if the order so provides, any Court trying such contravention may direct that any postal article, in respect of which the court is satisfied that the order has been contravened, shall be forfeited to His Majesty.

6. Power to intercept and censor postal articles.—(1) Notwithstanding anything contained in section 26 of the Indian Post Office Act, 1898 (VI of 1898), any person appointed by the Central Government to be a censor may—

(a) order that any postal article or class or description of postal articles in course of transmission by post shall be intercepted or detained or shall be disposed of in such manner as the censor may direct;

(b) open and examine the contents of any postal article, and delete, destroy or remove any part thereof which the censor considers to be prejudicial to the public safety or interest or to the security of India.

(2) Any person who delivers any postal article for transmission, either by an indirect route or otherwise, in such a manner as is calculated to evade examination by a censor, shall be punishable with imprisonment which may extend to five years or with fine or with both.

7. Power to prohibit, and to search, etc., travellers conveying non-postal correspondence.—(1) In this rule,—

“photograph” includes any photographic plate, photographic film or other sensitised article which has been exposed in a camera whether such plate, film or other article has been developed or not.

(2) The Central Government may, by order make provision for securing that, subject to any exemptions for which provision may be made by the order, and except in accordance with such conditions as may be contained therein, no article whatsoever recording information and no document, pictorial representation, photograph or gramophone record, shall be sent or conveyed, otherwise than by post, into or from India.

(3) No person shall have any article in his possession for the purpose of sending or conveying it in contravention of an order made under sub-rule (2).

(4) Any prohibition or restriction imposed by an order made under sub-rule (2) on the sending into, or conveying from, India of articles, shall be deemed to have been imposed under section 19 of the Sea Customs Act, 1878, and all the provisions of that Act shall have effect accordingly:

Provided that where in respect of any contravention of this rule the Customs-collector is of opinion that the penalties provided by the said Act are inadequate, he may make a complaint to a magistrate having jurisdiction; and the accused person shall, upon conviction, be punishable with imprisonment for a term which may extend to five years or with fine or with both.

(5) Any officer of customs may, for the purpose of carrying into effect the provisions of this rule, take such steps (including the subjection of the article to any process) as may be reasonably necessary for ascertaining whether an article does or does not record any information.

(6) The Central Government or the Provincial Government may by order authorise any person for the purposes of this rule to exercise the powers, and perform the duties, conferred or imposed on a Customs-collector or any subordinate officer of customs by the Sea Customs Act, 1878.

PART II

REQUISITIONING AND CONTROL OF AIRCRAFT

8. (1) The Central Government, subject to the provisions of sub-rule (2), may by order in writing requisition—

- (a) any aircraft in India and anything on board or forming part of any aircraft in India;
- (b) any aircraft registered under the Indian Aircraft Act, 1934 (XXII of 1934), or anything on board or forming part of such an aircraft wherever such aircraft may be;
- (c) any machinery, plant, material or thing used for the operation, manufacture, repair or maintenance of aircraft;

and may give such further orders as appear to the Central Government to be necessary or expedient in connection with the requisitioning.

(2) Where the Central Government has requisitioned any aircraft under sub-rule (1) the Central Government may see or deal with the aircraft for such purpose and in such manner as may appear to it to be expedient, and may acquire it by serving on the owner or person having the management thereof or where the owner or person having the management thereof is not readily traceable or the ownership is in dispute, by publishing in the official gazette a notice stating that the Central Government has acquired it in pursuance of this rule.

Where such notice of acquisition is served on the owner or person having the management of the aircraft or, as the case may be, published in the official gazette, then at the beginning of the day on which the notice is so served or published the aircraft shall vest in the Central Government, free from any mortgage, pledge, lien or other similar obligation, and the period of the requisition thereof shall end.

(3) The Central Government may by order require the owner, or the person having the management of, any such aircraft or thing as is referred to in sub-rule (1) to furnish to such authority as may be specified in the order such information in his possession relating to the said aircraft or thing (being information which may reasonably be required of him in connexion with the execution of this rule) as may be so specified.

(4) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

9. **Compensation for requisitioning or acquiring any aircraft.**—(1) Whenever in pursuance of rule 8 any aircraft is used, requisitioned or acquired by, or otherwise placed at the disposal or under the control of, the Central Government and the circumstances are not such as to render the provisions of Section 12 of the Public Safety Ordinance, 1948, applicable, the owner of such aircraft shall be paid such compensation for any loss he may have sustained as a result of such use, requisition, acquisition, disposal or control, as may be fixed in accordance with the provisions of this rule.

(2) In default of agreement, between the Central Government and the owner of the aircraft, the Central Government shall, by general or special order, specify the authority or person to which or whom any claim for compensation shall be submitted and the authority or person by which or whom any such claim shall be adjudged and awarded.

(3) The Central Government may further by general or special order prescribe the conditions to which the authority or persons responsible for adjudging or awarding claims for compensation shall have regard when determining the amount of compensation payable, and may give such supplementary orders as to the assessment and payment of compensation as may appear to it to be necessary or expedient.

10. Power to take up accommodation in aircraft.—(1) The Central Government may, by order in writing, require the owner or the person having the management or the pilot of any aircraft registered under the Indian Aircraft Act, 1934 (XXII of 1934)—

(a) to place at the disposal of Government the whole or any part of the space or accommodation available in or on such aircraft and to employ such space or accommodation for the carriage of any persons, animals or things to any place specified in the order; and

(b) to undertake or permit to be undertaken such structural additions or alterations to such an aircraft as may be necessary to fit it for the safe carriage of any persons, animals or things.

(2) Whenever in pursuance of clause (a) of sub-rule (1) any space or accommodation in any aircraft is placed at the disposal of the Central Government and the circumstances are not such as to render the provisions of Section 12 of the Public Safety Ordinance, 1948, applicable the owner of such aircraft shall be paid therefor at such rates as the Central Government may by order made in this behalf determine.

(3) Whenever in pursuance of clause (b) of sub-rule (1) the Central Government requires any structural additions or alterations to be undertaken on board any aircraft, the owner of such aircraft, shall be paid actual cost of such additions or alterations.

(4) If any order made under sub-rule (1) is contravened, the pilot of the aircraft and the owner or other person having the management thereof shall each be deemed to have contravened such order and shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

11. Stopping of aircraft.—(1) Any person authorised in this behalf by the Central Government may, if it appears to that person to be necessary in the interests of the public safety so to do, order, with respect to any particular aircraft at any place in India, that the aircraft shall not leave the place until permitted to do so by such authority or person as may be prescribed in the order.

(2) Subject to the provisions of sub-rule (3), if any aircraft leaves or attempts to leave any place in contravention of any such order as aforesaid, the pilot of the aircraft shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

(3) Any order made under this rule shall cease to have effect ninety-six hours after the time at which it is made, unless in the meantime it has been confirmed by the Central Government.

12. Power to restrict the transfer of aircraft.—(1) No person shall without the previous consent in writing of the Central Government transfer any interest in any aircraft registered under the Indian Aircraft Act, 1934 (XXII of 1934), wherever such aircraft may be whether the certificate of registration of such aircraft is in force or not, or in any part of an aircraft, or in any materials identified, under any system recognised by the Director General of Civil Aviation in India, for the purpose of the construction of aircraft.

(2) Any transaction effected in contravention of the provisions of sub-rule (1) shall be void and unenforceable.

(3) If any person contravenes any of the provision of sub-rule (1), he shall be punishable with imprisonment for a term which may extend to seven years or with fine or with both.

13. Enforcement of provisions of the Indian Aircraft Act and Rules.—The pilot of any aircraft flying in contravention of any provision of, or of any rule made under, the Indian Aircraft Act, 1934 (XXII of 1934), shall, on being warned in the manner prescribed by the rules made under that Act, immediately land, and if such pilot fails to comply with such warning as aforesaid, any commissioned officer of His Majesty's Indian forces may take or cause to be taken such action as may be necessary to terminate the flight.

PART III

MISCELLANEOUS

14. Obstructing lawful authority.—If any person voluntarily obstructs or offers any resistance to, or impedes or otherwise interferes with,—

- (a) any member of His Majesty's Indian forces acting in the course of his duties as such, or
- (b) any authority, officer or person exercising any powers or performing any duties conferred or imposed upon it, or him, by or in pursuance of these Rules, or
- (c) any person who is carrying out the orders of any such authority, officer or person as aforesaid or who is otherwise acting in accordance with his duty in pursuance of these Rules,

he shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

15. Offences by corporations.—If the person contravening any of the provisions of these Rules or of any order made thereunder is a company or other body corporate, every director, manager, secretary or other officer or agent thereof shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention.

16. Cognizance of contravention of rules, etc.—(1) No Court shall take cognizance of any alleged contravention of these Rules or of any order made thereunder, except on a report in writing of the facts stating such contravention made by a public servant.

(2) Proceedings in respect of a contravention of the provisions of these Rules or of any order made thereunder alleged to have been committed by any person may be taken before the appropriate Court having jurisdiction in the place where that person is for the time being.

17. **Power to give effect to Rules, orders, etc.**—Any authority, officer or person who is empowered by or in pursuance of any of these Rules to make any order, or to exercise any other power may, in addition to any other action prescribed by or under these Rules, take or cause to be taken, such steps as use, or cause to be used, such force as may in the opinion of such authority, officer or person, be reasonably necessary for securing compliance with, or for the preventing or rectifying any contravention of such order, or for the effective exercise of such power.

H. M. PATHAK